



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,684	12/17/2001	Leo Lauderbach	4452-447	2955

7590 08/26/2004

Thomas C. Pontani, Esq.
Cohen, Pontani, Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
----------	--------------

3683

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,684

Applicant(s)

LAUDERBACH ET AL.

Examiner

Devon C Kramer

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 2-4 and 8-16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-26 is/are allowed.
- 6) ☒ Claim(s) 1 and 4-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kowall (5531498) in view of McConnell (4854541) and further in view of Licking et al (5839230).

In reference to claim 1, Kowall provides a piston-cylinder assembly (figure 1) comprising: a cylinder (40) having an axis, the cylinder filled with gas; a piston rod (46) arranged for axial movement in the cylinder and projecting axially from the cylinder, the piston rod being fixed to a piston in the cylinder (inherent) so the gas exerts a restoring force on the piston rod when the piston is moved relative to the cylinder, the piston inherently dividing the cylinder into two working chambers, an the piston rod inherently having some type of guide; an adjusting device (38) comprising an actuator and a force transmitting element (92, 94) which is driven by the actuator to move the piston rod relative to the cylinder. Kowall lacks the extension or force-transmitting element attached to the piston.

in reference to claim 4, it is inherent that Kowall provides a guide for the piston rod.

In reference to claims 5-7, Kowall lacks the extension claimed.

Art Unit: 3683

McConnell teaches an extension (82) having a guide (98) attached to the piston, having a stop sleeve (96) for limiting movement of the piston rod relative to the cylinder connected to the extension by a threaded connection (102). Please note that the extension and the sleeve appear to be in contact and therefor connected.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have attached the force-transmitting element of Kowall to the piston as taught by McConnell merely because both ways are alternate equivalent means to perform the same operation and it is positively connected to the piston to ensure operation. Please note that McConnell seems to provide the same operation as the instant invention.

Both Kowall and McConnell lack the teaching of a seal for the extension.

It is known in the art to seal reciprocating devices such as piston rods and cables when they exit a pressure vessel such as a shock or damper. Licking teaches a cable seal (116).

It would have been obvious to one of ordinary skill in the art at the time of the invention of have provided the device of Kowall as modified by McConnell with a seal as taught by Licking et al in order to prevent loss of fluid from the cylinder.

Allowable Subject Matter

3) Claims 17-26 are allowed.

Response to Arguments

4) Applicant's arguments with respect to claims 1 and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

Please note that McConnell has been used for the teaching of attaching a cable to a piston.

Conclusion

5) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

Art Unit: 3683

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DK

Robert A. Siconolfi 8/23/04
ROBERT A. SICONOLFI
PATENT EXAMINER